

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LEROY CHISHOLM,

Petitioner,

-VS-

WARDEN MERLAK,

Respondent.

CASE NO. 4:16cv3052

JUDGE CHRISTOPHER A. BOYKO

ORDER

On December 21, 2016, Petitioner filed a *pro se* Petition for Writ of *Habeas Corpus* pursuant to 28 U.S.C. § 2241 (Dkt. #1). The case was referred to Magistrate Judge George J. Limbert pursuant to Local Rule 72.2. On June 21, 2017, the Magistrate Judge recommended that Respondent's Motion to Dismiss be denied, that Petitioner's Petition be construed as a §2255 Motion and transfer the instant case to the United States District Court Southern District of Georgia (Dkt. # 7).

FED. R. CIV.P. 72(b) provides that objections to a Report and Recommendation must be filed within fourteen days after service, but Petitioner has failed to timely file any such objections. Therefore, the Court must assume that Petitioner is satisfied with the Magistrate Judge's recommendation. Any further review by this Court would be a duplicative and inefficient use of the Court's limited

resources. Thomas v. Arn, 728 F.2d 813 (6th Cir. 1984), aff'd, 474 U.S. 140 (1985);
Howard v. Secretary of Health and Human Services, 932 F.2d 505 (6th Cir. 1991);
United States v. Walters, 638 F.2d 947 (6th Cir.1981).

Therefore, Magistrate Judge Limbert's Report and Recommendation is **ADOPTED** and Petitioner's Writ of *Habeas Corpus* (Dkt.#1) is construed as a 28 U.S.C. § 2255 motion. As a 28 U.S.C. § 2255 motion is properly filed in the jurisdiction where Petitioner was sentenced, the instant case is transferred to the United States District Court, Southern District of Georgia. Respondent's Motion to Dismiss is denied.

Furthermore, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Dated: 7/10/2017

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
UNITED STATES DISTRICT JUDGE